

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;  
Nanci E. Langley, Vice Chairman;  
Mark Acton; and  
Robert G. Taub

Ellisburg Post Office  
Ellisburg, New York

Docket No. A2011-75

ORDER AFFIRMING DETERMINATION

(Issued January 9, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”<sup>1</sup> The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly,

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<sup>1</sup> United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, at 1 (Notice).

the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On September 15, 2011, Winford J. Smith (Petitioner Smith) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Ellisburg, New York post office (Ellisburg post office).<sup>2</sup> Additional petitions for review were received from John DeVeau (Petitioner DeVeau), Debra Payne (Petitioner Payne), and Joseph Hart (Petitioner Hart).<sup>3</sup> The Final Determination to close the Ellisburg post office is affirmed.

## II. PROCEDURAL HISTORY

On September 20, 2011, the Commission established Docket No. A2011-75 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.<sup>4</sup>

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<sup>2</sup> Petition for Review Received from Winford J. Smith Regarding the Ellisburg, New York Post Office 13636, September 15, 2011 (Smith Petition).

<sup>3</sup> Petition for Review Received from John DeVeau Regarding the Ellisburg, New York Post Office 13636, September 15, 2011 (DeVeau Petition); Petition for Review Received from Debra L. Payne Regarding the Ellisburg, New York Post Office 13636, September 21, 2011 (Payne Petition); Petition for Review Received from Joseph T. Hart Regarding the Ellisburg, New York Post Office 13636, September 23, 2011 (Hart Petition).

<sup>4</sup> Order No. 862, Notice and Order Accepting Appeal and Establishing Procedural Schedule, September 20, 2011.

On September 30, 2011, the Postal Service filed the Administrative Record with the Commission.<sup>5</sup> The Postal Service also filed comments requesting that the Commission affirm its Final Determination.<sup>6</sup>

On October 18, 2011, Petitioner Smith filed a participant statement supporting his Petition.<sup>7</sup> On December 22, 2011, the Public Representative filed reply comments.<sup>8</sup>

### III. BACKGROUND

The Ellisburg post office provides retail postal services and service to 108 post office box customers.<sup>9</sup> Final Determination at 2. Thirty-four delivery customers are served through this post office. *Id.* The Ellisburg post office, an EAS-11 level facility, provides retail service from 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:45 p.m. Monday through Friday, and 8:15 a.m. to 11:00 a.m. on Saturday. *Id.* Lobby access hours are 8:00 a.m. to 5:00 p.m. Monday through Friday, and 8:15 a.m. to 11:15 a.m. on Saturday. *Id.*

The postmaster position became vacant on March 18, 2008, when the Ellisburg postmaster retired. *Id.* An officer-in-charge (OIC) was installed to operate the post office. *Id.* Retail transactions average 26 transactions daily (28 minutes of retail workload). *Id.* Post office receipts for the last three years were \$39,248 in FY 2008;

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<sup>5</sup> The Administrative Record is attached to the United States Postal Service Notice of Filing, September 30, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Ellisburg, NY Post Office and Extend Service by Highway Contract Route Service (Final Determination).

<sup>6</sup> United States Postal Service Comments Regarding Appeal, November 9, 2011 (Postal Service Comments).

<sup>7</sup> Participant Statement Received from Winford J. Smith, October 18, 2011 (Smith Participant Statement).

<sup>8</sup> Reply Comments of the Public Representative, December 22, 2011 (PR Reply Comments). The Public Representative submitted an accompanying Motion of Public Representative for Late Acceptance of Reply Comments. The motion is granted.

<sup>9</sup> The record is inconsistent about the number of post office box customers at the Ellisburg post office. See Final Determination at 2; Administrative Record, Item Nos. 8, 13, 15 (108 post office box customers); Final Determination at 2; Administrative Record, Item No. 1 (105 post office box customers).

\$35,270 in FY 2009; and \$33,228 in FY 2010. *Id.* There are no permit or postage meter customers. *Id.* By closing this post office, the Postal Service anticipates savings of \$43,124 annually. *Id.* at 8.

After the closure, retail services will be provided by the Pierrepont Manor post office located approximately four miles away.<sup>10</sup> Delivery service will be provided by highway contract route service through the Pierrepont Manor post office. *Id.* The Pierrepont Manor post office is an EAS-11 level office, with retail hours of 8:00 a.m. to 11:30 a.m. and 12:30 p.m. to 4:45 p.m. Monday through Friday, and 8:00 a.m. to 10:45 a.m. on Saturday. *Id.* Eighty-nine post office boxes are available. *Id.* The Postal Service will continue to use the Ellisburg name and ZIP Code. *Id.* at 8, Concern No. 4.

#### IV. PARTICIPANT PLEADINGS

*Petitioners.* Petitioners oppose the closure of the Ellisburg post office. They raise several issues related to the effect on postal services and the effect on the community. They argue that the Ellisburg post office is a larger, more convenient location and express concerns about the lack of parking at the Pierrepont Manor post office.<sup>11</sup> They assert that the Ellisburg post office is important to the community's identity because it serves many municipal government entities that are located within the Village of Ellisburg. *Id.*

Petitioner Smith contends that the Postal Service arbitrarily selected the Ellisburg post office for closure based solely on the postmaster's retirement. Smith Petition; Smith Participant Statement. He also questions the ability of the Pierrepont Manor post office to meet the demand of Ellisburg customers for post office boxes. *Id.*

*Postal Service.* The Postal Service argues that the Commission should affirm its determination to close the Ellisburg post office. Postal Service Comments at 2. The Postal Service believes the appeal raises three main issues: (1) the effect on postal

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<sup>10</sup> *Id.* at 2. MapQuest estimates the driving distance between the Ellisburg and Pierrepont Manor post offices to be approximately 3.92 miles (5 minutes driving time).

<sup>11</sup> Smith Petition; DeVeau Petition; Payne Petition; Hart Petition; Smith Participant Statement.

services, (2) the impact on the Ellisburg community, and (3) the effect on postal employees. *Id.* at 1. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the Ellisburg post office should be affirmed. *Id.* at 1-2.

The Postal Service explains that its decision to close the Ellisburg post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload and declining post office revenue;
- a variety of other delivery and retail options;
- little recent growth in the area;
- minimal impact on the community; and
- expected financial savings.

*Id.* at 4-5. The Postal Service contends that it will continue to provide regular and effective postal services to the Ellisburg community when the Final Determination is implemented. *Id.* at 5.

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioners regarding the effect on postal services, effect on the Ellisburg community, economic savings, and effect on postal employees. *Id.* at 5-14.

*Public Representative.* The Public Representative agrees with Petitioner Smith that the Postal Service arbitrarily decided to close the Ellisburg post office based solely on the postmaster's retirement. PR Reply Comments at 2. He also questions the economic savings estimated from the closure. *Id.* at 3.

## V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section

404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. *Id.* § 404(d)(5).

The record indicates the Postal Service took the following steps in reaching its Final Determination. On April 25, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Ellisburg post office. Final Determination at 2. A total of 140 questionnaires were distributed and 54 were returned. *Id.* On May 4, 2011, the Postal Service held a community meeting at Ellisburg Town Hall to address customer concerns. *Id.* Thirty-five customers attended. *Id.*

The Postal Service posted the proposal to close the Ellisburg post office with an invitation for comments at the Ellisburg and Pierrepont Manor post offices from May 18, 2011 through July 19, 2011. Final Determination at 2. The Final Determination was

posted at the same two post offices from August 23, 2011 through September 24, 2011. Administrative Record, Item No. 50.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

#### B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

*Effect on the community.* Ellisburg, New York is an unincorporated community located in Jefferson County, New York. Final Determination at 7. The community is administered politically by the Village of Ellisburg. *Id.* Police protection is provided by Jefferson County Sheriff. *Id.* Fire protection is provided by Ellisburg Volunteer Fire Department. *Id.* The community is comprised of those who work in local businesses or commute to work in nearby communities. *Id.* Residents may travel to nearby communities for other supplies and services. *See generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Ellisburg community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Ellisburg post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 7-8.

Petitioners contend that closing the Ellisburg post office would rob the community of its identity. They argue that the Ellisburg post office is important to the community's identity because it serves many municipal government entities that are located within the Village of Ellisburg. In response, the Postal Service asserts that a community's

identity “derives from the interest and vitality of its residents and their use of its name.” Postal Service Comments at 10. It states that it will help preserve community identity by continuing to use the Ellisburg name and ZIP Code. *Id.*

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

*Effect on employees.* The Postal Service states that the Ellisburg postmaster retired on March 18, 2008 and that an OIC has operated the Ellisburg post office since then. Final Determination at 2. It asserts that after the Final Determination is implemented, the OIC may be separated and that no other Postal Service employee will be adversely affected. Postal Service Comments at 11.

Petitioner Smith and the Public Representative question whether the postmaster vacancy is the only reason for discontinuing the Ellisburg post office. The Postal Service responds that studying a post office for closure when the postmaster position become vacant was common under postal regulations that were effective at the time the discontinuance began. *Id.* at 4 n.6. It asserts that its decision to issue the Final Determination was based on several factors, only one of which was the postmaster vacancy. *Id.* at 12.

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the Ellisburg post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

*Effective and regular service.* The Postal Service contends that it has considered the effect the closing will have on postal services provided to Ellisburg customers. Postal Service Comments at 5-9. It asserts that customers of the closed Ellisburg post office may obtain retail services at the Pierrepont Manor post office located four miles away. Final Determination at 2. Delivery service will be provided by highway contract route service through the Pierrepont Manor post office. *Id.* The 108 post office box customers may obtain Post Office Box Service at the Pierrepont Manor post office, which has 89 boxes available. *Id.*



For customers choosing not to travel to the Pierrepont Manor post office, the Postal Service explains that retail services will be available from the carrier. Postal Service Comments at 6. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.*

Petitioners contend that the Ellisburg post office is better able to provide regular and effective postal services than the Pierrepont Manor post office. They state that the Ellisburg post office is a larger, more convenient location that has ample parking to accommodate customers. They express concerns about having to travel further to obtain postal services. The Postal Service responds that a site visit was conducted, and it has been determined that the Pierrepont Manor post office has adequate parking. Postal Service Comments at 7. It explains that services provided at the Ellisburg post office will be available from the carrier, and customers will not have to travel to another post office for service. *Id.* at 6.

Petitioner Smith questions the ability of the Pierrepont Manor post office to meet the demand of Ellisburg customers for post office boxes. The Postal Service responds that there will be a sufficient number of post office boxes for Ellisburg customers assuming that some customers switch to carrier delivery. *Id.* at 7. As the Commission has stated, the Postal Service should ensure that an adequate number of post office boxes will be available at the Pierrepont Manor post office to meet demand.<sup>12</sup>

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by section 404(d)(2)(A)(iii).

*Economic savings.* The Postal Service estimates total annual savings of \$43,124. Final Determination at 8. It derives this figure by summing the following costs: postmaster salary and benefits (\$44,279) and annual lease costs (\$12,000) minus the cost of replacement service (\$13,155). *Id.*

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<sup>12</sup> See Docket No. A2011-66, Order No. 1107, Order Affirming Determination, January 5, 2012, at 8; Docket No. A2011-62, Order No. 1068, Order Affirming Determination, December 22, 2011, at 9.

The Public Representative argues that the economic savings may be inflated because the Postal Service failed to account for the possible loss of rental revenue from the Ellisburg post office boxes. PR Reply Comments at 3.

The Commission has previously stated that the Postal Service should not compute savings based on compensation costs unless there is a reasonable assurance that closing will actually eliminate those costs. The Ellisburg post office postmaster retired on March 18, 2008. Final Determination at 2. The post office has since been staffed by a non-career OIC who, upon discontinuance of the post office, may be separated from the Postal Service. Postal Service Comments at 11. The postmaster position and the corresponding salary will be eliminated.<sup>13</sup> Furthermore, notwithstanding that the Ellisburg post office has been staffed by an OIC for more than 3 years, even assuming the use of the presumably lower OIC salary, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv). Moreover, even incorporating the Public Representative's suggestion of potential loss of rental revenue from post office boxes, the Postal Service would realize net financial benefits.

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

## VI. CONCLUSION

The Postal Service has adequately considered all requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Ellisburg post office is affirmed.

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<sup>13</sup> See, e.g., Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10; Docket No. A2011-67, United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13.

*It is ordered:*

The Postal Service's determination to close the Ellisburg, New York post office is affirmed.

By the Commission.

Shoshana M. Grove  
Secretary

DISSENTING OPINION OF CHAIRMAN GOLDWAY (Ellisburg, New York A2011-75)

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the Ellisburg post office has been operated by an officer-in-charge since the former postmaster retired in March 2008. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal; yet on the other hand, it argues that the savings should be calculated using a full-time position.

There are inherent and blatant contradictions in the record that must be corrected on remand.

In addition, the Postal Service does not appear to have recognized in its economic calculations the loss of post office box revenue associated with the closure of the Ellisburg post office, and there are unrecognized lease obligations that would reduce the savings. The Administrative Record indicates that the post office lease was extended on February 28, 2011 to 2016, with no 30-day termination clause.

It is not the statutory responsibility of the Postal Regulatory Commission to correct the record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data was in the record. Therefore, the decision to close should be remanded to the Postal Service to correct the record and present a more considered evaluation of potential savings.

Furthermore, the Final Determination indicates that the Ellisburg post office has 108 post office box customers. Final Determination at 2. By contrast, the replacement post office in Pierrepont Manor has only 89 post office boxes available. *Id.* There is no explanation of the effect on customers of this shortfall. Without a more complete explanation of how the closing of the Ellisburg post office will affect post office box customers, the Postal Service has not satisfied its obligation to consider whether the replacement service it proposes is effective and regular service, as required by 39 U.S.C. § 404(d)(2)(a)(iii).

The Ellisburg post office is located in the Village of Ellisburg, which itself is located within the Town of Ellisburg, and for that reason there are a number of local government offices serviced by the Ellisburg post office within that locality. The Administrative Record does not reflect any attempt by the Postal Service to contact municipal officials in order to assess the impact on the local governmental agencies. The Postal Service has not satisfied its obligation to consider whether the effect of such

closing or consolidation on the community served by the post office, as required by § 404(d)(2)(a)(i).

Moreover, the Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process but had not yet received a discontinuance notice by December 12, 2011 have the respite of a 5-month moratorium.

The citizens of Ellisburg, New York and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

## DISSENTING OPINION BY VICE CHAIRMAN LANGLEY

The Postal Service did not adequately consider all requirements of 39 U.S.C. § 404(d).

The Postal Service did not adequately comply with 39 U.S.C. § 404(d)(2)(A)(iii) which requires that the Postal Service provide a maximum degree of effective and regular postal services to rural communities and small towns. The Postal Service indicates that the Ellisburg post office has 108 post office box holders and that the proposed Administrative Office, Pierrepont Manor post office, has 89 post office boxes available. Final Determination at 2. Should all current post office box holders opt for a post office box, it appears that the Pierrepont Manor post office does not have enough available post office boxes to accommodate the Ellisburg post office box holders.

In addition, the Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that since March, 2008, a non-career postmaster relief (PMR) has been in charge of this facility, not an EAS-11 postmaster. The PMR's salary and benefits should be reflected in the Postal Service's cost savings analysis.

Furthermore, the current lease does not terminate until February 28, 2016, and does not have a 30-day termination clause. The Postal Service should note that any savings from the lease will not be realized for at least four years. As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings, and that the community will continue to receive a maximum degree of effective and regular postal services.

I find that the Postal Service's decision to discontinue operations at the Ellisburg post office is unsupported by evidence on the record and thus, should be remanded.

Nanci E. Langley